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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,524	10/08/2003	Leslie S. Marco	13727	9641
<div>7590 Raymond W. Campbell TAYLOR &amp; AUST, P.C. 142 S. Main St. P.O. Box 560 Avilla, IN 46710</div>			<div>EXAMINER TAWFIK, SAMEH</div>	
			<div>ART UNIT 3721</div>	<div>PAPER NUMBER</div>
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/28/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/681,524	<b>Applicant(s)</b> MARCO ET AL.	
	<b>Examiner</b> Sameh H. Tawfik	<b>Art Unit</b> 3721	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 January 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slomski (U.S. Patent No. 5,868,659) in view of Broskow (U.S. Patent No. 5,487,465).

Slomski discloses a method of making a container carrier, comprising steps of: providing a handle sheet and a carrier sheet (Fig. 4; via sheets handle sheet 56 and container sheet 52); positioning the handle sheet (56) on at least a portion of the carrier sheet (52), see for example (Fig. 4); connecting the handle sheet and the carrier sheet along a line of attachment (Figs. 3 and 4; via along attaching line 46/38); forming a container holding portion (via 22) only in the carrier sheet, including forming first and second rows of container receiving apertures in the carrier sheet on opposite sides of the line of attachment (Figs. 3, 4, and 6); and forming holes only in the handle sheet simultaneously with forming the first row of apertures (Fig. 4; via forming holes in the handle sheet 56 simultaneously with forming the apertures of web 52), the holes and the first row of apertures formed in substantially the same configurations, see for example (Fig. 4).

Slomski does not disclose the step of forming first and second rows of container receiving apertures in the carrier sheet after the steps of positioning and connecting. However, Broskow discloses a similar method and apparatus of making a container carrier with the step of

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forming first and second rows of container receiving apertures in the carrier sheet after the steps of positioning and connecting, see for example (Fig. 5).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Slomski's method and apparatus by having the step and means of forming first and second rows of container receiving apertures in the carrier sheet after the steps of positioning and connecting, via by connecting webs 52 to 56 before been feed to the forming stations 60 and 62, as suggested by Broskow, as a matter of engineering design choice.

Regarding claim 2: Slomski discloses the step of connecting performed by creating a substantially continuous weld between said sheets (Figs. 3 and 4; via weld/seal line 38).

Regarding claim 3: Slomski discloses the step of connecting the handle sheet with the carrier sheet along first and second spaced lines of attachment (Figs. 3 and 4; via connecting 64 at it's both sides with respect to the carrier sheet); and removing a portion of the handle sheet between the first and second spaced lines of attachment, see for example (Fig. 4; via by removing portions of handle 26 between two connecting lines 38).

Regarding claim 4: Slomski in view of Broskow does not disclose a third row of apertures in the carrier sheet. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Slomski in view of Broskow by having a third row of apertures in the carrier sheet, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 5: Slomski discloses the step of forming holes in the handle sheet simultaneously with forming the apertures, see for example (Fig. 4).

Regarding claim 6: Slomski discloses the step of forming first and second handles in the handle sheet (via multiple forms of 26).

Regarding claims 7 and 12: Slomski in view of Broskow does not disclose the step of forming a merchandising panel. However, the examiner takes an official notice that such a merchandising panel in container carrier is old, well known, and available in the art.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Slomski in view of Brosko, by having the step of forming a merchandising panel, as a matter of engineering design choice, in order to advertise for the products.

Regarding claim 8: Slomski discloses a method of making a container carrier, comprising steps of: providing a handle sheet and a carrier sheet (Fig. 4; via 52 and 56); positioning the handle sheet against the carrier sheet (Fig. 4); connecting the handle sheet and the carrier sheet along spaced first and second lines of attachment (Figs. 3 and 4; via 38 and 64); removing a strip of the handle sheet between the lines of attachment, see for example (Fig. 4), leaving a first handle portion of the handle sheet outwardly from the first line of attachment and a second handle portion of the handle sheet outwardly from the second line of attachment (Fig. 4; via handles 26 out from the attached lines); forming a first row of container receiving apertures in the carrier sheet outwardly from the first line of attachment and simultaneously forming holes in the first handle portion of the handle sheet similarly shaped to the first row of apertures (Figs. 3

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and 4); forming a second row of apertures in the carrier sheet between the first and second lines of attachment (Fig. 4).

Slomski does not disclose the step of forming performed after the steps of positioning and connecting. However, Broskow discloses a similar method and apparatus of making a container carrier with the step of forming first and second rows of container receiving apertures in the carrier sheet after the steps of positioning and connecting, see for example (Fig. 5).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Slomski's method and apparatus by having the step and means of forming first and second rows of container receiving apertures in the carrier sheet after the steps of positioning and connecting, via by connecting webs 52 to 56 before been feed to the forming stations 60 and 62; as suggested by Broskow, as a matter of engineering design choice.

Slomski in view of Broskow does not disclose a third row of apertures in the carrier sheet. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Slomski in view of Broskow by having a third row of apertures in the carrier sheet, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claims 9 and 11: Slomski discloses that the forming steps performed by die cutting, see for example (Figs. 2-4).

Regarding claim 10: Slomski disclose that the handle sheet (56) is wider than the carrier sheet (52); via after the shaping step.

Regarding claim 13: Slomski discloses the step of providing the handle sheet of material different from the material of the carrier sheet (Fig. 4; via 52 and 56).

***Response to Arguments***

Applicant's arguments filed 01/12/2007 have been fully considered but they are not persuasive.

Applicants argue in pages 5 and 6 of the filed arguments that Slomski's reference teaches punching the container engaging portion and the handle portion separately before attaching the carrier and handle sheets together, while Broskow's references discloses forming carrier of two sheets or from a folded sheet, in contrast the claim 1 recites forming a container holding portion only in the carrier sheet then the steps of positioning and connecting. The examiner maintains that the step of forming a container holding portion only in the carrier sheet and the step of forming a handle portion only in the handle sheet been disclosed and shown in Slomski's reference (Fig.4; via press die 60 for forming the container holding portion and press die 62 for forming the handle), such steps were preformed prior to the step of positioning and connecting. However, as set forth in the rejection Broskow's reference discloses a similar process and apparatus of making a container carrier discloses the step of positioning and connecting prior to the steps of forming, regardless to how it shows the step of forming as the main reference to Slomski discloses such forming step as claimed and the only missing teaching of Slomski was the arranging of steps. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Slomski's method and apparatus by having the step and means of forming first and second rows of container receiving apertures in the carrier sheet after the steps of positioning and connecting, via by connecting webs 52 to 56

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before been feed to the forming stations 60 and 62, as suggested by Broskow, as a matter of engineering design choice.

Applicants further argue in pages 6 and 7 of the filed arguments that Slomski does not disclose handle portion with holes similar to the shaped of container apertures of the carrier. The examiner maintains that the claimed “similarly” is a broad term equivalent to “alike” which Slomski’s handle holes could be consider “similarly” or “alike” to the apertures of the carrier.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is 571-272-4470. The examiner can normally be reached on Tuesday - Friday from 9:00 AM to 7:30 PM.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sameh H. Tawfik  
Primary Examiner  
Art Unit 3721

ST.

A handwritten signature in dark ink, appearing to be 'Sameh', with a long horizontal flourish extending to the right.